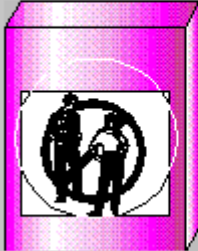


## Chapter 11

# SEXUAL HARASSMENT

### 11 Sexual Harrassment



**Author:** Lawrence J. Rifkind

**Quote:** "As men and women continue to work together in larger number, the need for heightened awareness and sensitivity toward issues related to sexual harrassment intensifies. "

### INTRODUCTION

The 1990's promises to be the decade of women's leadership in the workplace.<sup>1</sup> The United States Bureau of Labor Statistics projects that the labor force will reach 139 million by the year 2000. Nearly two-thirds of the new entrants in the workforce will be female. Women are now exploring a wide variety of choices other than those traditionally considered appropriate. As a result, the workplace is becoming more of a "salad bowl" than a "melting pot."<sup>2</sup>

Increasing numbers of women are entering the aviation industry, which historically has been staffed by men. The Department of Labor projects that female participation in the overall labor force will increase to nearly 47% by the year 2000.<sup>3</sup> As white male participation in the aviation maintenance work force decreases, technician jobs will be filled by females (currently 2% of [AMT](#) workforce) and others who have not traditionally been aviation maintenance technicians (AMTs).<sup>4</sup> This changing composition of the workforce is a fact everyone must be prepared to respond to competently. Given the pressures and scrutiny inherent in high-profile maintenance careers, this trend will powerfully impact the aviation industry.

As men and women continue to work together in larger numbers, the need for heightened awareness and sensitivity toward issues related to sexual harassment intensifies. Behaviors such as sexually charged jokes, lewd comments and innuendoes, leering, touching private body parts, gender-related insults, and demands for sexual favors continue to permeate the workplace.<sup>5</sup> Therefore, it is important for everyone to understand which actions are appropriate (and which are inappropriate) in the changing context of work.

In addition to the moral and ethical issues raised by sexual harassment, such behaviors can have a direct and degrading effect on worker performance. The discussion of performance shaping factors in [Chapter 1](#) pointed out that emotional factors are potent causes of poor performance. We will provide ample evidence in this chapter that sexual harassment can cause severe emotional and other stress-related reactions.

Sexual harassment can also affect the bottom line. In 1995, a woman was awarded \$50 million as a result of a sexual harassment lawsuit against WalMart. Of this award, less than \$50,000 was for compensatory damages, with the bulk of the money being assessed as punitive damages. Regardless of the likely reduction in this huge award, the legal costs and eventual damages paid by the company are an indication of the potential costs of sexual harassment.

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In this chapter, we provide a description of sexual harassment laws. The reader will develop an understanding of problems that can arise for both men and women in the aviation industry. We also present strategies for dealing with such behaviors and materials to help the reader develop an understanding of the causes and effects of sexually harassment.

## BACKGROUND

Sexual harassment is certainly not a new phenomenon. It has probably existed as long as both sexes have been present in the same workplace. In the last two decades, however, more and more women have entered the workplace -- many in occupations that had been (and still are) dominated by males. This has increased the opportunity for conflict between the sexes. In addition, recent legislation has defined the bounds of acceptable on-the-job behavior.

While it is possible for sexual harassment to include actions of individuals of the same sex, the vast majority of complaints involve females being harassed by males. Some of the more egregious examples of sex-based behavior include criminal acts, including physical assault. We have all read and seen accounts of such obviously deviant actions. Sexual harassment is usually more subtle, more pervasive, and less easily identified. In the following sections, we will explore the definition, scope, and legal limitations of on-the-job behavior.

### The History of Sexual Harassment

Current sexual harassment laws, policies, and guidelines are a maze of vaguely-written legal dead ends and pitfalls resulting more from random historical events than from clear, logical thinking. With so much at stake for everyone -- multimillion dollar lawsuits, worker productivity and retention, morale, and career longevity -- it is important to understand the history of sexual harassment.

There were no federal laws prohibiting workplace sexual harassment prior to 1980. In fact, the term *sexual harassment* did not exist. Any action against individuals exhibiting these behaviors was rare. Little attention was given to workplace sexual harassment or sex discrimination until the 1970s.

Sexual discrimination in employment became illegal in the United States with the passage of the Civil Rights Act of 1964. That Act established the Equal Employment Opportunities Commission (EEOC), which would later issue sexual harassment regulations. Ironically, discrimination based on sex was not originally included in the Act, but was added to the bill by its Southern opponents. They thought that the inclusion of sex discrimination would undermine support for the bill when it came to final vote. However, the Johnson administration, who strongly supported the Act, did not oppose the amendment. In a nutshell, this is how employment discrimination on the basis of sex became illegal.<sup>6</sup>

The term *sexual harassment* was not included in the Civil Rights Act, nor in the fair employment practices statutes most states enacted over the next few years. However, there was mounting pressure for the courts to rule that sexual harassment is a form of sex discrimination. In 1980, the [EEOC](#) finally issued regulations defining sexual harassment as a form of sex discrimination prohibited by the Civil Rights Act. In 1986, the US Supreme Court ruled that sexual harassment on the job was a form of sexual discrimination, and, therefore, is illegal.

### Sexual Harassment Defined

The definition of *sexual harassment* is fairly straightforward. However, the determination of what behaviors constitute sexual harassment is complicated; it is also the basis for many problems.<sup>7</sup> [EEOC](#) guidelines provides the following definition of *sexual harassment*:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

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1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
3. such conduct has the intention or effect of unreasonably interfering with an individual's work performance or of creating an intimidating, hostile, or offensive working environment.

This definition indicates what is necessary to prove an allegation of sexual harassment. Whether the conduct is physical or verbal, it must be *unwelcome*. How the person who is the target of such behavior(s) expresses that it is unwelcome can be a critical ingredient in a sexual harassment claim. The sexual nature of the conduct *does not have to be as overt as suggestive comments*. It may involve actions that would not have occurred, except for the victim's gender.

### Quid Pro Quo Vs. Hostile Environment

Legislation, [EEOC](#) guidelines, and subsequent court rulings make it imperative that organizations recognize the legal implications of its employees' behavior and of the employer's potential liability. Sexually harassing behaviors fall into two categories: *quid pro quo* or *hostile environment*.

The most easily identifiable type of sexual harassment is *quid pro quo* or "this for that."<sup>8</sup> In this situation, the harasser attempts to trade a job or business favor for some type of sexual action on the part of the victim. The harasser is always in a position of higher authority than the victim. The victim must be able to prove some monetary loss as a result of the harassing behavior. For instance, if an employee is not granted a raise in salary because the employee refuses to provide sexual favors to the person who makes or influences the decision about the raise, then a clear monetary loss can be documented and proven. There needs to be only one occurrence of the harassing behavior to prove *quid pro quo* sexual harassment.

Hostile environment sexual harassment is more vaguely defined. The harasser may be anyone in the workplace. For example, a female employee subjected to a co-worker's sexually explicit jokes may have a valid sexual harassment claim. To prove hostile environment sexual harassment, the behavior must be continuous, frequent, and repetitive. One incident does not comprise grounds for hostile environment sexual harassment.

Several incidents occurring over long periods of time are not likely to be considered sexually harassing. In the case of an explicit joke, if a year passes between such attempts at humor, there is less likely to be grounds for claiming sexual harassment.

A demonstrated monetary loss is not required to establish hostile environment. However, the harassing behavior must be such that it affects the employee's *work performance* or the employee's *working environment must be rendered abusive*. In the case of an explicit joke, if an employee is offended to the extent that he or she leaves the work area when the person telling the joke enters, then the offensive behavior affects the employee's ability to perform work-oriented tasks because it affects his or her job performance.<sup>9</sup>

Sexual harassment legislation was not intended to eliminate all expression of human sexuality in the workplace, but to prohibit behaviors that are offensive to an individual in the performance of his or her job. The [EEOC](#) (29 [CFR](#), 1604.11, 1988) recommends considering the following factors to determine if these conditions have been met:

1. the extent to which the conduct affected the employee's terms and conditions of employment
2. whether the conduct was repeated or isolated
3. whether the conduct was intended or perceived seriously or in jest
4. the degree to which the conduct is contrary to community standards.

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Each situation must be considered on its own unique circumstances and merit. In particular, community standards can present the greatest legal difficulty. For example, the term "hon" is often used in the deep south as a term of affection. There are no sexual harassment implications for using the term in this context. However, a person using this term in the north, where such a practice is uncommon, might be making himself or herself, as well as the employer, liable to sexual harassment charges.

### Cultural Power Differences

Power differences between men and women result from society's traditional sex-role stereotyping and is a major cause of sexual harassment.<sup>10</sup> A culture tending to place males into greater positions of power than females would expect to have women file a higher rate of sexual harassment complaints because they occupy positions of less authority.<sup>11</sup> When unequal power relationships between the sexes are rooted in cultural experiences, work contexts can provide a foundation legitimizing sexual harassment in the workplace.<sup>12</sup>

Cultural conditioning can create an environment conducive to sexually harassing behaviors.<sup>13</sup> Expectations that women are passive and submissive and that men are aggressive and dominant create situations conducive to these behaviors.<sup>14</sup> A sexually harassing and hostile workplace can establish specific patterns of verbal and nonverbal communication creating unequal power relationships between men and women.<sup>15</sup>

### Communication Styles

Not all sexual harassment is the same, nor can all harassment be dealt with at a personal level.<sup>16</sup> However, many sexual harassment situations may be managed successfully through face-to-face communication. Of course, individuals' effective management of sexual harassment is enhanced when the organization offers appropriate and ready support.

When someone believes that a message sent to him or her is sexually harassing, perception carries more weight than the sender's intent.<sup>7</sup> Let's say that a female employee and her supervisor, a male, meet to discuss a project. They have worked together for approximately one year. As the meeting approaches its end, the supervisor says that as the project reaches completion, "It's gonna get rough. Of course, the rougher, the better. I think you are the kind of woman who likes it really rough." Although some people might find this amusing, it hits others close to home and is quite offensive.

Men and women communicate differently, creating and reinforcing power imbalances which provide the foundation for workplace sexual harassment. Women's tendency to reveal personal feelings more often than men may be interpreted as flirtatious, signaling a sexual invitation.<sup>17</sup> Men may bring aggressive behavior into the workplace, asserting power, while women, who tend to be more nonassertive, are placed at a disadvantage.<sup>18</sup>

Interrupting someone can serve as a means to control a conversation. Since men are more comfortable interrupting a conversation and changing its topic, they may redirect workplace communication toward inappropriate sexual topics.<sup>19</sup> Men are more likely to intrude on women's personal space; women tend to have smaller spatial zones.<sup>20</sup> Such actions allow men to invade women's space easily and, thereby, to further establish dominance.

Men touch women more than women touch men. Men are expected to initiate touch with women, while women are expected to be the recipients of male touching.<sup>21</sup> This creates a power imbalance: when men touch women, who are not granted the same privilege in return, touch becomes a symbol of power and status. The kinds of touch men exhibit such as hugging, pinching, grabbing, fondling, patting or kissing may be considered sexually harassing by women.

Men's and women's different workplace communication styles can create a work environment

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conducive to sexual harassment. Sex-role stereotyping can make such types of actions more likely. Since men and women interact differently, their conversations could profitably be viewed as cross-cultural.<sup>22</sup> The same behavior can result in different perceptions and subsequent interpretations on the part of both sexes.

## ISSUES AND PROBLEMS

A number of issues and problems are associated with sexual harassment. These can have pronounced impacts on individuals, as well as on the workplace. As a whole, they provide readers with an understanding of the scope of the problem.

### Complainant Characteristics

Individuals who file sexual harassment complaints share a number of common traits. A composite demographic description of complainants is provided in [Table 11-1](#).

**Table 11-1. Demographic characteristics of sexual harassment complaints.**

- Most are between 25 and 35 years of age; very few are over 45.
- Almost half are single.
- Over 40% are high school graduates. Slightly over 50% have some college experience (53%), and one-third (38%) graduated from college.
- Unskilled workers and those in clerical/secretarial positions account for 51% of complaints. Professionals, such as doctors and lawyers, account for 3% of complaints.
- Being in a job traditionally performed by one sex seems to make alleged sexual harassment experiences more likely.

### Common Reactions To Being Sexually Harassed

The reactions of individuals subjected to sexual harassment vary, depending on many factors. However, as sexual harassment becomes better understood, it is clear that certain reactions are more likely. The most common reactions to being sexually harassed are listed in [Table 11-2](#). Readers should note that an individual can have more than one reaction to sexual harassment. For example, an individual can react to sexual harassment with anger, helplessness, confusion, and concern regarding his or her career.

**Table 11-2. Common reactions to being sexually harassed.**

#### Confusion and/or Embarrassment

- Have I misinterpreted the situation?

#### Career Effects

- Changes in work habits
- Loss of job or promotion
- Unfavorable performance evaluations

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- Drop in work performance
- Increased absenteeism
- Resignation
- Change in career goals

### Helplessness

- No one is going to believe me.
- It's their word against mine.
- If I complain, it will make matters worse.

### Anger and/or Feeling Insulted

- I am being cheated out of opportunities.
- Why hasn't something been done about this person's behavior?

### Increased Levels of Anxiety

- I will never receive a good recommendation.
- Everyone else will know I've complained.
- Everyone will say that I have overreacted and am too sensitive.

## Sexual Harassment Trauma Syndrome

A person's reaction(s) to sexual harassment vary widely. Behavior that one person completely ignores might be extremely hurtful and traumatic to another. As with other types of traumatic experiences, sexual harassment can lead to a number of physical and psychological symptoms. Depending on the nature of the harassment, the environment in which it occurs, and the individuals' personalities, symptoms can be more or less severe.

As sexual harassment has been studied, researchers have identified a group of reaction symptoms composing a sexual harassment trauma syndrome. [Table 11-3](#) outlines this syndrome's components.

### Table 11-3. Symptoms composing Sexual Harassment Trauma Syndrome.

#### Emotional Reactions

- Anxiety, shock, denial
- Anger, fear, frustration
- Insecurity, betrayal, embarrassment
- Confusion, self-consciousness

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- Shame, powerlessness
- Guilt, isolation

### **Physical Reactions**

- Headaches
- Sleep disturbances
- Gastrointestinal distress
- Insomnia
- Dermatological reactions
- Weight fluctuations
- Nightmares
- Panic reactions
- Anxiety attacks
- Substance abuse
- Respiratory problems

### **Changes in Self-Perception**

- Negative self-concept/self-esteem
- Lack of competency
- Lack of control/powerlessness
- Isolation and hopelessness

### **Social/Interpersonal/Sexual Effects**

- Withdrawal
- Fear of new people and/or new situations
- Lack of trust
- Lack of focus
- Self-preoccupation
- Changes in social network patterns
- Negative attitudes and behaviors in sexual relationships
- Potential sexual disorders associated with stress and trauma
- Changes in dress and/or physical appearance



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### REGULATORY REQUIREMENTS

An individual experiencing what he or she considers sexually harassing behavior has a range of alternatives for assistance in dealing with the situation. No alternative is more effective than the others, since several overlap.

In most cases, there are straightforward alternatives. Each option should be viewed in a series of escalating steps. If the behavior is not properly addressed by pursuing one alternative, the complainant can adopt others until finding an effective method.

If the sexual harassment situation is not satisfactorily resolved with face-to-face meetings or internal complaint procedures, the next step to consider would be filing a complaint under the US Civil Rights Act with the US Equal Employment Opportunities Commission (EEOC) or filing a complaint under a similar state law with a state or local Fair Employment Practices (FEP) agency.

In so doing, one accomplishes the following:

1. It sets in motion an investigation by the [EEOC](#) or the state [FEP](#) agency that may resolve the sexual harassment complaint
2. It is a necessary prerequisite under the US Civil Rights Act and under some state FEP statutes if an employee wants to file a lawsuit.[23](#)

Most of these agencies provide assistance in negotiating a satisfactory resolution to the situation at no cost and with minimal legal involvement. Some [FEP](#) agencies can facilitate appointing an administrative hearing panel that can compensate the complainant for personal injuries.

If efforts to pursue an investigation and settlement do not resolve the situation, an individual may consider filing a lawsuit for damages under the US Civil Rights Act or under a state [FEP](#) statute. If the sexual harassment resulted in severe injuries, the complainant is best advised to obtain legal counsel.

Obtaining legal counsel may result in skipping the above-mentioned steps and immediately filing a lawsuit under any one of several common law tort theories. Common law torts are most appropriate for individuals who have been seriously injured, since this action requires proving conduct that was truly outrageous. Common law tort actions are costly in both time and money. Although common law torts vary from state to state, these cases allow a judge or jury to award large sums in damages.

### CONCEPTS

Several basic concepts are associated with sexual harassment. In this section, we describe fundamental concepts readers need to appreciate the discussion and guidelines we provide in this chapter. The concepts are presented alphabetically.

#### Compensatory Damages

Compensatory damages are funds awarded to individuals to make them whole or to place them in the position they would have been in had the situation they complained of never occurred. It includes actual losses.

#### Hostile Environment



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Hostile Environment is one of the two types of sexual harassment claims. It requires showing frequent, repeated, nontrivial acts of a sexual nature that create a hostile, offensive, or intimidating working atmosphere.

### Quid Pro Quo

Quid Pro Quo is one of the two types of sexual harassment claims. It requires showing unwelcome activity of a sexual nature in exchange for a tangible job benefit or the loss of a tangible job benefit owing to the victim's rejection of such activity. It constitutes an abuse of supervisory power.

### Reasonable Man/Woman

Reasonable Man/Woman is the mythical judicial construct of an individual who thinks and responds the way an ordinary, logical, and careful person would under the same conditions. It comprises a standard for behavior.

### Sex Discrimination

Sex Discrimination is the cause of action recognized by Title VII of the Code of Federal Regulations (CFR) and many state statutes. It entails favoring one individual or group over another on the basis of gender or stereotypical assumptions associated with gender.

### Sexual Harassment

Sexual Harassment is unlawful sexual conduct, including unwelcome sexual advances, requests or demands for sexual favors, and other verbal or physical conduct. To be considered sexual harassment, this conduct must meet several [specific qualifications](#).

### Tort

A Tort is a civil wrong, redressed by monetary damages.

### Unwelcome Conduct

Unwelcome Conduct is behavior its recipient considers offensive and undesirable. It involves behavior its recipient neither encourages nor incites.

## METHODS

A number of techniques can be used to prevent, curtail, or manage workplace sexual harassment. A typical "management" response to sexual harassment is simply to outlaw the behavior. In this way, managers try to place sexual harassment in the same category as other socially unacceptable behavior, e.g., drinking on the job. However, efforts to legislate moral behavior have been unsuccessful historically.

The methods described in the remainder of this section are directed toward changing the offending individual's behavior, usually by providing prospective victims with appropriate response mechanisms.

### Assertiveness

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Assertiveness entails standing up for personal rights and expressing thoughts, feelings, and beliefs in a direct, honest, and appropriate way that does not violate another person's rights.<sup>24</sup> Assertiveness would involve telling a harasser immediately and directly that the behavior is unacceptable and illegal, insisting that such activities cease. One might say, "I am uncomfortable with your comments about my physical appearance and would like you to stop making them. That kind of behavior does not belong in the workplace."

### Assertive-Empathic Approach

An assertive-empathic approach to sexual harassment contains elements of assertiveness while conveying special concern for the other person's perspective.<sup>25</sup> To be empathic is to look at things from the other person's point-of-view. Adding empathy to an assertive message can eliminate unfavorable assessments of the message and the person sending it, while serving to establish positive rapport. An assertive-empathic approach to sexual harassment might be to say, "I don't want to hurt your feelings, but I am very uncomfortable with what you just said. I enjoy working with you, but would appreciate it if you stopped making such comments."

### Covert Manipulation

Covert manipulation involves providing information in a manner that prevents recipients from realizing they are being influenced.<sup>26</sup> This technique entails "joining in" by turning the situation around on the harasser and thereby "beating them at their own game." For example, a victim might repeat what the harasser said in a voice loud enough that others will hear what was said. The distinct disadvantage to this approach is that it may stop a harasser momentarily only to open the victim to future harassment from the same or another harasser. Covert manipulation can also engender hostility and revenge.

### Expressing Non-judgemental Feelings

The recipient of sexually harassing behavior may express thoughts and feelings without being explicitly judgmental. For example, to be non-judgmental in response to sexual harassment, a victim might say, "This is the fourth time today you made sexual comments to me. This conduct has occurred repeatedly since we started working together. I've never had to put up with this kind of activity before."

### Meaning Transformation

It is possible to transform meaning by enlarging the context in which the sexually harassing behavior occurred. This approach involves advocating a new meaning for what has been said. In effect, a victim is saying that complying with sexual demands is inconsistent with what is expected of a good employee. A use of meaning transformation in response to sexual harassment might be to say, "If I agree to have sex with you, I would be compromising my professional integrity. You may consider your actions to be complimentary when, in fact, they are insulting."

### Providing Reasons for Change

Providing reasons for the harasser to change behavior can be quite effective as a response to sexual harassment. This can be focused positively and non-threatening. For example, a victim could say, "You're a good person to work with, but I would appreciate your not saying things like that. I don't mean to offend you, but such behavior is inappropriate in the workplace."

### Redefining the Situation

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It is possible to redefine the situation to preclude continuation of sexually harassment. At the same time, a victim can deflect the implication that the harasser is a bad person who has harmed somebody. An example of redefining the situation in response to sexual harassment might be to say, "I appreciate your fair treatment of me in the past. However, when you make sexually suggestive comments such as that, I end up feeling degraded and devalued."

### Redirection

Redirection allows the victim to focus the discussion away from sexually harassing topics and onto those that might serve a more preventive purpose. This tactic allows a victim to respond to a harassing remark professionally.<sup>27</sup> An example of redirection in response to sexual harassment might be to say, "Let's get back to work now that you've gotten that out of your system."

### Reframing

Reframing the behavior allows the victim to provide an interpretation of what was said that is different from the harasser's. A person who is the target of harassing comments may indicate that he or she chooses not to comply because it is in the best interest of the company. A use of reframing in response to sexual harassment might be to say, "I won't be able to perform the job you hired me to do if you keep acting that way."

### Strategic Ambiguity

Strategic ambiguity allows people to express thoughts and feelings while simultaneously denying specific interpretations which may be threatening. It can be used to foster agreement on generalities, while allowing individuals to maintain different interpretations of what has occurred.<sup>28</sup> This strategy leaves open the possibility that the harasser will interpret the message correctly without the victim having to be too direct. A response to sexual harassment incorporating strategic ambiguity might be to say, "I have never quite considered that before. Leave it to you to say something like that."

### Threatening

Sometimes, one has no choice but to threaten a harasser with legal action or public exposure if the harassing behaviors persist. Threats may be necessary for a stubborn harasser. Of course, threats are only as effective as the strength and prominence of the organization's policies against sexual harassment.<sup>29</sup> It is advisable for the victim to be fully prepared to pursue such recourse prior to making a threat. A threat in response to sexual harassment might be to say, "If you do not stop treating me that way, I will file a complaint with your supervisor."

## READER TASKS

All actions readers' take pertaining to sexual harassment should be based on the assertion that sexual harassment is undesirable. At certain levels, it is illegal. This is why reader tasks can be grouped into three categories:

- prevention
- identification and management
- elimination.

We describe these three categories of reader tasks in this section. In the [GUIDELINES](#) section, we

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provide specific guidance related to these tasks.

### Preventing Harassment

Perhaps the most effective way to stop sexual harassment is implementing preventive actions minimizing the likelihood of these activities occurring. Workplace conduct and communication must be desexualized, i.e., behavior is not offensive and/or unwelcome to men or to women. Courts are increasingly recognizing that offensive behavior need not involve a person's sexuality to constitute sexual harassment. This implies that the workplace should become "degendered" as well as desexualized.<sup>30</sup>

Increasingly, employers are held responsible for fostering a workplace without sexual harassment. One way of doing this is with a clearly developed, well-articulated sexual harassment policy, providing a concrete means to indicate the behavior that will not be tolerated. It is important that the policy be inclusive, taking into account both male and female perspectives of what behaviors are unwelcome or comprise a hostile work environment.

### Identifying and Managing Harassment

Sexually harassing behavior must be identified before it can be eliminated. Training is the most effective way to sensitize employees to the effects of their actions. The benefits of effective training to prevent the establishment of a sexually harassing work environment have been discussed earlier in this chapter. In the [GUIDELINES](#) section, we describe a training program that emphasizes role-playing techniques; it is designed to foster gender-flexible behaviors. Some activities are included as well.<sup>31</sup> Sexual harassment questionnaires or surveys can also be beneficial.

### Eliminating Existing Harassment

Permitting sexual harassment in the workplace, even tacitly, can bring serious legal and monetary sanctions against employers. Managers and supervisors should communicate the consequences for individuals engaging in sexually harassing behaviors. Recent court decisions have increased the employer's responsibility to eliminate sexual harassment. An organization can avoid liability by promptly responding to sexual harassment charges and immediately investigating all claims, rumors, or allegations of sexual harassment.

## GUIDELINES

In this section, we provide guidance related to the reader tasks described above.

### Preventing Harassment

It is the employer's responsibility to provide a workplace in which employees are comfortable with their interactions. In occupations that are traditionally male-dominated, as is aviation maintenance, it is reasonable to assume that most employees haven't really considered their behavior in terms of its potential effects on members of the opposite sex. A reasonable premise for sexual harassment is that many harassing behaviors are unintentional. Presumably, workers would be more careful if they knew it was offensive and harassing.

A number of simple workplace guidelines can help prevent common types of harassing behavior. The guidelines below provide a set of recommendations on how best to behave with members of the opposite sex in both business and social settings. They do not address what to do after sexually harassing behaviors occur, but what to do to *prevent* the likelihood that they will happen.

When considering these guidelines, managers and supervisors should remember that employees take

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their cue from their bosses. If supervisors show, with their comments and behavior, that preventing sexual harassment is not a high priority, they should not expect their employees to show high regard for prevention. On the other hand, when supervisors are conscientious in their interactions with employees, their employees are more likely to adopt a sensitive, non-harassing attitude.

### *Be Assertive*

If someone says or does something that is offensive and it seems to be unintentional, tell the person tactfully. A properly timed, immediate response is helpful. It is preferable that this occur privately, unless you feel uncomfortable being alone with the individual. The person should understand why these behaviors are unacceptable.

### *Establish a Work Environment of Trust and Honesty*

An environment of trust and honesty avoids a climate in which ambiguous messages subject to individual interpretation are misunderstood. If you or the other person are not certain of a message's meaning, seek clarification or allow the other person the benefit of the doubt.

### *Avoid Compliments Pertaining to Personal Appearance, Clothing, and Artifacts*

It is not wrong to make compliments about personal appearance, clothing, or artifacts, but it makes for good common sense not to. These types of comments are subject to individual interpretations that may vary considerably among persons. If you want to compliment someone, compliment him or her on work or job performance; this allows for depersonalized comments. For example, you could say something like, "This letter is written quite well" or "The repairs that you worked on were done very well."

### *Do Not Use Vulgar or Slang Language*

Omit obscenities, off-color humor, or sexual language from interactions. Completely avoid dirty jokes. In fact, eliminate any inappropriate discussion of sex related topics, such as sexual problems or experiences.

### *Avoid Teasing*

Teasing includes childlike, innocent teasing that is not sexual. When you realize that a key component of sexual harassment is power, you understand how these behaviors might be viewed as inappropriate, possibly giving other messages that are more likely to be interpreted as sexually harassing.

### *Monitor Your Own Verbal and Nonverbal Communication Behaviors*

Take responsibility for your own actions. Be sensitive and aware of what you say and do and of your behavior's likelihood or potential for offense. Apply the reasonable person standard in formulating messages to others by considering how someone might feel in response to what you say before saying it.

### *Pay Attention to Others' Verbal and Nonverbal Communication Behavior*

Be aware of others' body language so that you can monitor feedback from them in response to what you communicated. Listen carefully to what the other person said and how it was said. Common signs that someone is feeling uncomfortable with what has been said include the following:

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- Clenched fists
- Opening and closing hands repeatedly
- Attempting to hide hands
- Trembling hands
- Trembling voice
- Rapid eye blinking
- Lack of eye contact
- Lip biting
- Clenched teeth/biting the lower lip
- Pale or flushed skin color
- Increased perspiration
- Variations of normal voice pitch level.

### *Maintain Poise and Composure*

Do not allow the emotion of a moment to get the best of you. Instead, make a constant effort to remain cool, calm, and collected. In particular, try not to let others cause you to act or react inappropriately.

### *View Everyone as being Equally Empowered*

Do not place yourself on a lofty perch, coming across abruptly or condescendingly. Recognize that everyone you interact with is empowered. We are all equally protected under sexual harassment laws, policies, and procedures.

### *Treat Others as You Would Like Them to Treat You*

Respect others' rights as you would like them to respect yours. Before acting, ask yourself how you would feel if someone else said or did that to you. When appropriate, view yourself with the reasonable person standard by asking, "What would a reasonable person think?"

## **Identifying and Managing Harassment**

We noted in the previous discussion that a good deal of sexually harassing behavior is unintentional. If we accept the premise that we are all responsible for our behavior, it behooves supervisors and managers to help employees identify behavior constituting sexual harassment. A number of methods can be effective to increase employees' awareness of sexually harassing behavior. We describe two simple methods below.

### *Questionnaires/Surveys*

We noted in other chapters that questionnaires are a relatively cheap, easy way to acquire information on specific topics. A sexual harassment questionnaire can serve two important functions. First, information obtained from the questionnaire helps define the extent that employees are aware of what behavior constitutes sexual harassment. Second, the questionnaire's content sensitizes employees to issues related to sexual harassment and to management's commitment.

### *Training*



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Recognizing culturally ingrained behavior like sexual harassment often requires educating people to recognize their own objectionable behavior. It helps when people become aware of their attitudes towards sex-role stereotypes. Training for these purposes can consist of role playing, videotaped productions of common sexually harassing situations, and workshops.

**Role playing.** Role playing can expand people's awareness of communication styles. Participants can create scenarios to be acted out by suggesting actual work experiences. Females can practice how to handle a male who persists in making sexual overtures. Males can work on finding alternate approaches to these situations. Participants should discuss the issues related to this conduct so that both males and females reach a fuller understanding of such acts' implications.

Activities can allow employees to become more aware of subtle ambiguities associated with body movements and other kinds of nonverbal communication. People can role play constantly interrupting each other to understand the impact this can have on other speakers. People can practice nonverbal techniques that indicate discomfort with what is being said. For example, participants can focus on body movements, eye behaviors, or postural shifts that provide feedback suggesting the inappropriateness of the behavior.

Similar behavior identification techniques can further modify people's behaviors through greater flexibility and situational adaptation. Participants could be asked to provide workplace examples of typical personal space invasions, body movements, and touch that can convey sexually harassing messages. The trainer should probe for feelings of intimidation, helplessness, or lack of power that result from such actions.

Role playing offers people an opportunity to monitor when they move close to sexually harassing behavior. Feelings of confusion, resentment, or anger may result. These feelings can be explored to provide insight into the consequences of such activities, allowing them to develop clearer, unambiguous communication.

**Videotape.** Videotape can allow both males and females to become more sensitive and aware of the verbal and nonverbal messages they send. The tapes may reveal people's tendencies to smile at inappropriate times; or they may disclose the range of interpretations that could be associated with a certain facial expression or gesture. A number of commercially available videotapes address issues related to sexual harassment.

**Workshops.** Seminars and workshops for supervisors and staff can help sensitize them to the nature of sexual harassment and various costs associated with it. The workshops can inform employees about sexual harassment issues and communicate the organization's position regarding such behavior.[32](#)

## Eliminating Sexual Harassment

Given the persistent nature of ingrained behavior, at least some sexual harassment is likely to occur even when managers conscientiously try to prevent it. As part of an overall sexual harassment policy, employers should develop procedures to address sexual harassment charges or complaints. The basis of these procedures should be to ensure that the steps described below are taken after an employee makes a sexual harassment charge or complaint.

### *Step 1-Separate the victim (complainant) from the alleged harasser.*

As soon as possible after a complaint or formal charge has been filed, separate the alleged harasser and the complainant(s). This can be accomplished in several ways. For example, separating the accuser and accused may be as simple as moving one or the other to a different work location.

### *Step 2-Conduct a thorough investigation.*



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Procedures should be in place to ensure a thorough, objective, and quick investigation of sexual harassment complaints. The investigation should be as confidential as possible and conducted by individuals with no personal or professional stake in its outcome. Friends or co-workers of either party are not appropriate investigators. While the investigation is not necessarily bound by the rules of a legal proceeding, remember that both parties should be accorded confidentiality and due process protection. Speed is of the essence since both parties' reputations can be adversely affected by rumors or the appearance of foot dragging.

### *Step 3-Communicate the results of the investigation.*

Regardless of the outcome, formally communicate results of the investigation to both the complainant(s) and to the accused *in writing*. Both the complainant(s) and the accused harasser should also be told of the results in a face-to-face meeting with the person heading the investigation. Procedures should be in place to allow the complaint to be escalated to a higher level of management or to appeal the investigation's result.

### *Step 4-Take action.*

If the charges are found to be groundless, the complainant should be given clear instructions to keep the charges and the investigation confidential. All records of the investigation should be sealed and stored in a secure location. If the charges are substantiated, clear and direct means of addressing the investigation's results are necessary. Appropriate responses may include training, disciplinary action, or termination of the harasser. A combination of "prohibition plus penalty" *clearly stated in a sexual harassment policy* communicates both the problem's seriousness and the organization's commitment to eradicating it.[33](#)

### *Step 5-Maintain contact with the victim.*

It is helpful to maintain close contact with victims of sexual harassment. Special reporting or grievance procedures should clearly stipulate this and should be readily available to all employees. Policies and procedures should make potential victims aware of their rights and should afford them the opportunity to report such activities in a non-threatening manner without fear of retribution.

## WHERE TO GET HELP

Sexual harassment is a widely recognized and studied problem. Because of its notoriety and the fact that legal sanctions can be imposed on offending companies and individuals, a number of organizations offer assistance with harassment-related problems. The most common sources of help are listed below.

The American Arbitration Association is a national nonprofit organization providing mediation and arbitration services. This organization also offers neutral investigations of workplace disputes.

**American Arbitration Association**  
**140 West 51st Street**  
**New York, NY 10020**  
**(212) 484-4000**

The American Bar Association (ABA) publishes a pamphlet that includes local attorney listings by state and county. Most state bar associations offer legal referrals.

**American Bar Association**

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**750 North Lakeshore Drive**  
**Chicago, IL 60611**  
**(312) 988-5555**

The American Civil Liberties Union (ACLU) provides legal advice, counseling, and referrals through its state or local offices.

**American Civil Liberties Union**  
**132 West 43rd Street**  
**New York, NY 10036**  
**(212)944-9800**

The American Psychological Association (APA) provides referrals to specialists who deal with psychological effects associated with sexual harassment.

**American Psychological Association**  
**750 1st Street, NE**  
**Washington, DC 20002**  
**(202) 336-5500**

The Center for Women's Policy Studies publishes written materials pertaining to sexual harassment.

**Center for Women's Policy Studies**  
**2000 P Street, NW**  
**Suite 508**  
**Washington, DC 20036**  
**(202) 872-1770**

The Center for Working Life is a national nonprofit organization offering workshops, training, and support groups for victims of sexual harassment.

**Center for Working Life**  
**600 Grand Avenue, Suite 305**  
**Oakland, CA 94610**  
**(510) 893-7343**

The Federation of Organizations for Professional Women provides telephone advice and counseling, as well as written materials regarding sexual harassment. It has support groups in the Washington, DC, area. The Federation may be able to provide limited legal assistance through the Professional Women's Legal Fund.

**Federation of Organizations for Professional Women**  
**2001 S Street, NW**  
**Suite 500**  
**Washington, DC 20009**  
**(202) 328-1415**

9 to 5 operates a toll-free, confidential telephone hotline. The organization provides information and referrals, as well as books pertaining to sexual harassment. Members receive legal referrals.

**9 to 5 National Association of Working Women**

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**614 Superior Avenue, NW**  
**Cleveland, OH 44113**  
**(216) 566-9309 (General Information)**  
**(800) 522-0925 (Hotline)**

The Society for Human Resource Management is the primary professional organization for human resources managers. It provides a video training program and advice on developing sexual harassment policies.

**Society for Human Resource Management**  
**606 North Washington Street**  
**Alexandria, VA 22314**  
**(703) 548-3440**

The US Department of Labor's Women's Bureau offers a list of sexual harassment resources, including organizations, training materials, court cases, and articles.

**US Department of Labor, Women's Bureau**  
**200 Constitution Avenue, NW**  
**Room S3311**  
**Washington, DC 20210**  
**(202) 523-6665**

The Women's Legal Defense Fund is a national nonprofit membership organization providing public education, written information, advocacy, and targeted litigation on sexual harassment.

**Women's Legal Defense Fund**  
**1875 Connecticut Ave. NW**  
**Suite 710**  
**Washington, DC 20009**  
**(202) 986-2600**

## FURTHER READING

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## EXAMPLE SCENARIOS

The scenarios presented below represent some of the typical kinds of sexual harassment situations one can expect to encounter in the workplace. The purpose of including these scenarios in the *Guide* is to demonstrate how the authors foresee the document being used. For each scenario, we describe how the issues raised in the scenario can be resolved. There is usually more than one way to approach these issues, so the responses given below represent only one path that users of the *Guide* might take.

As a general rule, always start to look for information by using the Search function. There will be instances that you already know where required information is located. However, unless you frequently use specific sections of the *Guide*, you might miss information pertaining to the same issue located in more than one chapter. The Search will allow you to quickly search all chapters simultaneously.

### Scenario 1 - A Woman in a "Man's" Job

You hired the first female [AMT](#) in the organization about 6 months ago. During the job interview, you told her that she would probably be given a hard time by many of the male technicians, since they didn't really want a woman in the group. Last week, she came to you and complained that the sexual innuendo, explicit sexually-oriented comments, posting of nude female pictures in lockers, etc., had not abated. She requested that you do something about the situation.

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1. Is it possible that the behavior of the male technicians constitutes illegal sexual harassment?
2. If the response to Issue (1) is "yes", what type of sexual harassment could this conduct be contributing to?
3. What actions should you prohibit, if any, on the part of the male technicians?

### Responses

1. The short answer is "yes". The definition of sexual harassment in the [BACKGROUND](#) section of the chapter includes three conditions - any one of which can form the basis for illegal sexual harassment. As with all illegal harassment, the behavior in question must be unwelcome. The fact that this employee complained to you is ample evidence that she finds the men's behavior unwelcome. Based on her description of the other workers' conduct, there is also no doubt that the behavior is primarily of a sexual nature.

2. In the [BACKGROUND](#) section, we defined two types of illegal sexual harassment, *quid pro quo* and *hostile environment*. The female employee did not allege that anyone demanded sexual favors from her in return for promotions or other job benefits. Therefore, the only possibility here is that the behavior of the male technicians might constitute hostile environment harassment. In the description of this type of harassment, we noted that it has three additional components. That is, in a hostile environment, the behavior must be:

- continuous,
- frequent, and
- repetitive.

From the description of the behavior in this scenario, it meets all of these criteria. Six months of continuous harassment is certainly more than enough to qualify your workplace as an illegal hostile environment.

3. The [GUIDELINES](#) section of the chapter addresses eliminating existing sexual harassment, which is certainly the situation in this scenario. We list 5 steps that you should take in this situation, beginning with removing the female technician from the harassing environment. Actually, the decision to remove the female technician from her normal duties should be made advisedly. After all, she is the alleged victim in this scenario. Removing her might do damage to her career. However, at the very least, this option should be provided. It is clear that the harassment will continue if she stays in her present position and no other action is taken.

This should be followed by an investigation into her allegations. We've made the probable findings of such an investigation sound pretty clear-cut, but this may or may not be the case in an actual harassing case. If the investigation identifies only a few harassers, then they should be counseled. In addition, the guidelines related to preventing future harassment should be implemented. Based on the results of the evaluations, the harassers should be provided with some combination of counseling, training, and discipline.

### Scenario 2 - Physical and Emotional Stress

A female technician who works for you complains that a certain co-worker's harassing behavior is causing her such anxiety that she can't sleep and is beginning to have stomach problems. You think

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she must be exaggerating. You're also surprised she said anything. After all, she's a college grad and must have experience this kind of behavior before.

### Issues

1. Are this person's symptoms consistent with being sexually harassed?
2. Should you be surprised that a college graduate would complain about sexual harassment?
3. If you do nothing, can this woman sue the company for damages?

### Responses

1. Yes. In the discussion regarding "Sexual Harassment Trauma Syndrome," [Table 11-3](#) lists many of the symptoms that can result from sexual harassment. Included in this list are both sleep disturbances and gastrointestinal distress.
2. No. The demographic characteristics of sexual harassment complainants are described in [Table 11-1](#). Over 50% of people who complain of being sexually harassed have attended college.
3. Most definitely. In the [REGULATORY REQUIREMENTS](#) section of the chapter, we describe the actions that a complainant can take in response to sexually harassing behavior. We point out that the first step is normally a face-to-face meeting with one's immediate supervisor to request that the harassing behavior be stopped. In this scenario, that is exactly what has taken place. If you do nothing, the female technician is perfectly within her rights to file a complaint with federal and/or state authorities and then to file a civil lawsuit against the company.

## Scenario 3 - Potentially Harassing Environment

As a supervisor, you feel that you've been pretty innovative as far as hiring female [AMTs](#). You've hired six women in the past two years and they seem to get along well with the male technicians. In fact, several of the women are treated as "one of the guys," so to speak. They are always kidding with the men and exchanging sexually-oriented jokes. You are becoming concerned that this type of behavior will eventually lead to complaints of sexual harassment.

### Issues

1. Is the behavior described in this scenario likely to be construed as sexual harassment?
2. What should you do, if anything, to determine whether any of the female (or male) employees is uncomfortable with the present work environment?
3. What steps, if any, should you take to eliminate the type of behavior described in this scenario?

### Responses

1. We discuss the definition of sexual harassment in the [BACKGROUND](#) section of the chapter. From the description of this scenario, there have apparently been no overt suggestions of any kind regarding sexual conduct. Thus, no *quid pro quo* sexual harassment is present. The only other real question is whether the type of behavior we describe is so objectionable to some employees that it could constitute a *harassing environment*.

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Based only upon what we've told you in the scenario, the behavior is unlikely to be construed as sexual harassment. After all, both sexes have engaged in repartee and joking. You have not received any complaints regarding this behavior. In the absence of any other evidence to the contrary, this behavior is not harassing.

2. Just because nobody has come to you to complain, doesn't mean that everyone is comfortable with the behavior we've described. The fact that you're becoming concerned should tell you that others might be concerned as well. In the [GUIDELINES](#) section of the chapter, we describe several steps that you could take to determine whether the workers' behavior is really troubling anyone.

Discreet face-to-face discussions with a sample of workers is one way to sample worker opinion. An anonymous survey or questionnaire might solicit information that people would be unlikely to give directly to a supervisor. Certainly a general sensitivity training course would put everyone on notice regarding how their (even innocent) behavior might be construed.

3. The first part of the [GUIDELINES](#) section describes various steps that you can take, as a supervisor, to prevent sexual harassment. As far as the behavior described in this scenario, it isn't clear that you should try to do anything about it. In fact, the joking and kidding actually keeps the workplace loose. However, this is the type of behavior that can easily get out of hand. There is always at least one individual who is willing to push the behavior envelope.

You should demonstrate by your own behavior that you do not participate in nor condone *excessive* joking around and teasing, especially of a sexual nature. You should also establish a clear policy to the effect that if *anyone* is offended by the behavior of their fellow employees, sexually-oriented or otherwise, that they should discretely notify you - without fear of retribution. Try to handle any such complaints immediately, on a face-to-face basis, with the offending employee. Don't let such behavior slide, since it will only get more frequent.

### Scenario 4 - Personality Issues

As the manager of your company's component maintenance facility, you've tried to be "blind" when you hire technicians. If they're qualified, then they're hired - regardless of culture, color, gender, etc. As a result, you have many female technicians working in various locations. Unfortunately, one female worker in particular is known throughout the organization as a real pain. She works in the avionics bench shop and she seems to be always complaining about one thing or another. Recently, she came to you and told you that her supervisor offered to promote her to Senior Tech, but only if she would sleep with him.

#### Issues

1. How seriously do you have to take this complaint? After all this woman has complained about everything on earth.
2. If you take the complaint seriously, what is the first action you must take?
3. If the allegation is true, does this type of behavior constitute sexual harassment?

#### Responses



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1. The complainant's personality and work history are issues that we don't directly address in the chapter. The reason we don't address them is that, at least as far as sexual harassment complaints, they don't matter. All complaints must be taken seriously, regardless of who makes them. You cannot pre-judge the validity of sexual harassment complaints before you investigate them.
2. In the [GUIDELINES](#) section, we list a series of steps that must be taken in response to allegations of sexual harassment. The first of these steps is to separate the complainant and the alleged harasser. In this scenario, one of two things must happen. Either the female technician should be temporarily assigned to duties outside the avionics shop or her supervisor should be temporarily assigned to other duties (or suspended with pay).
3. Absolutely. This is the classic *quid pro quo* sexual harassment described in the [BACKGROUND](#) section.

### Scenario 5 - Alternate Lifestyles

One of your male technicians has publicly accused another of being gay. The person who made the accusation is known throughout the shop as an "Archie Bunker" type. At first, the individual he accused of being gay laughed it off. Unfortunately, the accuser has continued to make snide comments, use insulting language, and generally give the "gay" technician a very difficult time. The technician who has been the object of the accuser's behavior has come to you, as his supervisor, and told you he believes he is being sexually harassed. He has threatened to file a complaint with the [EEOC](#).

#### Issues

1. Is it possible for a male to sexually harass another male?
2. What if the person who complained to you really is gay?
3. What action, if any, should you take on this complaint?

#### Responses

1. Yes. There is nothing in the definition of sexual harassment, given in the [BACKGROUND](#) section, that specifies the gender of the accuser and complainant. The type of behavior described in this scenario certainly meets the requirement of "... creating an intimidating, hostile, or offensive working environment." Thus, males can sexually harass males and females can sexually harass females.
2. A person's sexual orientation has nothing to do with the validity of a sexual harassment complaint. Whether or not the complainant is gay should have no bearing on your actions as a supervisor. If, in fact, the complainant is not gay, then he might have grounds for legal action, other than on sexual harassment grounds, against his accuser and, perhaps, the company for allowing such behavior to continue.
3. You should take the same actions you would take on any sexual harassment complaint. See the [BACKGROUND](#) section of the chapter for the steps to taken in response to complaints of existing sexual harassment.

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